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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 463rd MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 3 May 2001, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.463/Add.1.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Third periodic report of Greece (continued) (CAT/C/39/Add.3)

1. At the invitation of the Chairman, the delegation of Greece took places at the Committee table.

2. The CHAIRMAN invited the Greek delegation to answer the questions put by Committee members.

3. Ms. PAPAMITROPOULOU (Greece) said that prison doctors received no specific training as they were deemed to be experts knowledgeable on the subject of torture. Prisoners were given a medical examination on the day after they entered detention. If they were found to be suffering from a disease, the appropriate treatment was prescribed or they were referred to a specialist or, if necessary, a special hospital. Prisoners were then examined at six-month intervals. They could consult a doctor of their choice whenever they wished, but at their own expense.

4. Brochures about daily life in prison and prisoners' rights were normally issued to inmates on arrival, although it was possible that in some instances the stock might have run out.

5. The Korydallos prison hospital, which was equipped with an operating theatre and laboratories, served both the prison of the same name and other prisons throughout the country. It was staffed round the clock, and specialists could be called in if needed. Patients who were too seriously ill to be cared for by the prison hospital were sent to the appropriate public hospital.

6. Vocational training programmes were run in prisons. In 1999 and 2000, 195 prisoners had attended 18 such programmes and had been paid for their participation. Similarly, if prisoners worked, one day's work would count for one-and-a-half to two days of their sentence. Further details would be provided in the country's next periodic report.

7. Mr. THEONAS (Greece) said that police intervention was not prompted by racial discrimination. Police action to uphold law and order was based on case-by-case risk assessment. For example, the Roma often lived in camps where trafficking in drugs and weapons was rife; thus special police units were often obliged to intervene there. The purpose of police operations in certain regions was to combat increases in crime levels, illegal immigration and the smuggling of drugs and weapons.

8. Disciplinary sanctions had been imposed on policemen in four cases. One police officer had been prosecuted in criminal court and sentenced to 10 months' imprisonment. One policeman had been dismissed from the service for sexually abusing women and two others had been suspended from work for six months on the same grounds. Their cases were currently pending in criminal court.

9. With regard to detention facilities, police stations throughout the country had room for 2,000 detainees. Some 1,500 persons were currently in custody, of whom 1,200 were men. The problem of overcrowding was worst in Greater Athens, as that was where persons were held prior to deportation. A new detention unit for 50 persons costing 72 million drachmas had been built in Piraeus, and a contract was about to be signed for the construction of a new building to house the Alien and Transfer Service, where accommodation for 400 detainees would be provided. Fifteen separate building and repair projects were expected to produce a radical improvement in prison conditions.

10. Lastly, in reply to a question about the detention of women, minors and expectant mothers, he said that a special centre that could house 107 persons existed for that purpose at Amygdaleza.

11. Mr. SPINELLIS (Greece) said that Greece's failure to publish the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment for 1996, 1997 and 1999 was due not to any sinister motives, but rather to poor coordination between the ministries concerned. He would recommend to those ministries that they should publish the reports as soon as possible.

12. With regard to the attitude of judges to breaches of illegal immigrants' rights, he said that he often gave lectures to members of the bench and had discerned no signs of discriminatory sentiments among them. In his opinion, the reason few police officers were prosecuted was that there was a lack of evidence, and that many of the complainants were acting in bad faith. Moreover, some courts might even show leniency towards the police, because they considered that they had to operate in difficult circumstances.

13. He found the reasoning of the judges of the European Court of Human Rights in the case of Dougoz v. Greece rather unconvincing. The judges had held that the opinion issued by the Deputy Public Prosecutor of the Court of Cassation was not sufficiently authoritative, but they had failed to consider a legal rule which made it possible to order the temporary detention of the deportee during deportation proceedings. The European Court had further maintained that the applicant's requests to the Ministers of Justice and Public Order for release could not be considered effective remedies under article 5, paragraph 4, of the European Convention on Human Rights. He had, however, been unable to discover any precedent establishing that an applicant was required to appeal one court's decision to another court.

14. On the question of habeas corpus, he explained that provision for that institution was made in article 6 of the Constitution and in several articles of the Code of Criminal Procedure. Whenever an investigating judge decided to remand a person in custody in the pre-trial phase, the detainee could appeal that decision to the indictments chamber, which sat in camera. Any enforceable decision issued by an administrative authority could be challenged before the Council of State, an administrative court.

15. Lectures on human rights were offered to senior officers at the Police Academy and were devoted to arrest and detention, search and seizure, and torture and ill-treatment. The courses drew on the case law of the European Court of Human Rights and the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

16. No tapes or video recordings were made of interrogations. A person accused of a felony was questioned by the investigating judge; if a misdemeanour had been committed, the interrogation was conducted by a magistrate or police officer under the supervision of the Public Prosecutor. Accused persons were always accompanied by counsel. The Code of Criminal Procedure expressly stipulated that the accused had the right to remain silent. A clerk always kept records of proceedings.

17. In the previous three years, the Office of the Citizen's Advocate had processed almost 20,000 complaints, 15 or 20 of which had related to cases of ill-treatment. Complaints about detention conditions in police stations had led the Citizen's Advocate to corroborate the findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

18. As for compensation, it must be remembered that the mistreatment of prisoners constituted a tort under article 137, subparagraphs (a) to (d), of the Criminal Code. Article 105 of the Introductory Law to the Civil Code made the State jointly liable for any such torts committed by civil servants.

19. Any confession extorted by torture would be rejected by the courts as being contrary to article 2, paragraph 1, and article 7, paragraph 2, of the Constitution. Furthermore, article 177, paragraph 2, of the Code of Criminal Procedure stipulated that courts could not consider evidence obtained by means of a criminal offence.

20. Turning to the questions on article 16, he said that the total capacity of Greek prisons was 5,004 places. The prison population at 1 May 2001 had been 8,306, including 500 women. In addition, 536 boys and 23 girls were being held in juvenile prisons. He did not know how many prisoners were illegal immigrants. An ambitious programme to build more prisons was under way, but many alternatives to custodial sentences existed in Greece. A sentence could be suspended, as when a first-time offender was sentenced to less than three years' imprisonment. A custodial penalty of two to three years could also be converted into a fine, with such action mandatory in the case of penalties of up to one year. Community service had been introduced some years earlier but was proving hard to organize, as Greece had no probation officers to supervise offenders performing that service. That task fell to public prosecutors, who were reluctant to add those duties to their existing workload. He was unable to supply any figures on community service. Alternative penalties were applied in 95 to 97 per cent of all cases in which custodial sentences could be imposed.

21. There were currently 2,138 prison officers in Greece. A further 500 were soon to be recruited, 150 of whom would be psychologists or social workers. In addition, 160 guards had been hired externally. It was natural to ask why illegal immigrants who were being detained should not be released; however, if they were freed, it would be difficult to find them when the time came to deport them. Some 380,000 illegal immigrants had been granted resident status under a programme carried out in 1997. The new law to which he had referred earlier offered further opportunities to regularize the situation of illegal immigrants.

22. Any person who resisted deportation had to be escorted by two policemen onto an aircraft and released in his or her native country. As the police officers then had to fly back to Greece, the whole procedure was very expensive.

23. Greece had a total of 42,000 police officers.

24. He preferred to refer to the Turkish minority in Western Thrace as the Muslim minority, as it included Pomaks and Roma. Their family and inheritance laws were based on privileges guaranteed by the 1923 Treaty of Lausanne, which preserved certain of the religious rights that had existed under the Ottoman Empire. To date there had been no cases in which a woman had appealed to the Greek courts on the grounds that Islamic law was discriminatory, and he was not sure what would happen if such a case did arise: men and women were equal under Greek law, but the Treaty of Lausanne, as an international instrument, took precedence over Greek municipal law, yet was lower in status than the Constitution.

25. An interesting question had been asked about the incarceration of pregnant women and mothers with children. A separate unit at the Korydallos women's prison was set aside for women with children under the age of three and expectant mothers. Some 12 women and 7 babies were being held there. A special infant section had been established and was functioning.

26. Four articles of the Greek Criminal Code made torture a serious criminal offence. The Code distinguished between torture and other forms of inhuman and degrading treatment, with the Greek definition of torture slightly broader than that contained in the Convention. He would be happy to supply Committee members with an English translation of the articles in question.

27. It should be noted that the Public Prosecutor's Office was no longer subordinate to the Ministry of Justice. Magistrates within that Office who served as public prosecutors monitoring the observance of human rights in prisons did not report directly to the Public Prosecutor's Office but exercised a special function vis-à-vis the prisons.

28. Mr. RASMUSSEN asked where prison doctors might have received prior training that would have made them familiar with prison conditions, and especially with torture. He also expressed concern at Greece's predicament with regard to prison overcrowding.

29. It was not clear whether aliens whose papers were in order and who had applied for asylum were held in restricted conditions as were illegal aliens. He drew attention to a news release of the previous day which had reported unrest on one floor of the Central Police Building in Athens, where illegal aliens scheduled for deportation were held. Some 50 foreign detainees had rioted because they had been held for two months without deportation procedures having been initiated; the police had claimed that the delay was due to a lack of cooperation between Greece and the countries of refoulement. He wished to know what the capacity of that particular floor of the Central Police Building was, and how many persons were being detained there. He reiterated that police detention facilities had been built to hold prisoners for only a short time, not for months.

30. Mr. SPINELLIS (Greece) said that there was no way to give figures on illegal aliens in Greece because the situation was so fluid. There was unquestionably overcrowding in police stations, of which there were 2,000 nationwide. The 600 police stations in Greater Athens, 200 of them in central Athens, contained most of the aliens awaiting deportation. Many of those sought asylum at the last moment, and although few such requests were justified, they all had to be investigated. He knew nothing about the previous day's incident in the Central Police Building, where generally interrogations and investigations were conducted. If the foreign detainees had indeed been held there for such a long time, that was simply one more indication of the serious overcrowding with which Greece was dealing. The new law referred to at the previous meeting, offering illegal aliens a new opportunity to apply for residence and work permits, might alleviate the situation, since many might opt for legalization over deportation. Three years earlier only 30,000 out of the estimated 80,000 illegal aliens had applied when offered the opportunity.

31. Mr. RASMUSSEN noted that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had made a specific recommendation regarding the poor conditions in the detention facilities in the Athens Police Headquarters, which it had visited in 1993.

32. Ms. GAER requested, in the next report, disaggregated data, both general and specific, on the monitoring, if any, of inter-prisoner violence and sexual violence in prisons.

33. When conflicts arose between Greek laws and personal status laws under the separate legal system given status by the Treaty of Lausanne, how did the Government provide affirmative protections so that violence against women would be appropriately criminalized? An independent Greek Government agency, the General Secretariat for the Equality of the Sexes, claimed that the police generally discouraged women from pursuing domestic violence cases in the courts. Yet violence against women should be made a crime and should be prosecuted.

34. In connection with the policing manuals and the Central Prisons Scientific Board policies, she recalled the statement by a member of the delegation that since Roma often resided in drug- and crime-ridden tent camps, the police were frequently obliged to respond with special forces, depending on the danger expected each time. She wondered whether that might not be akin to the racial profiling that had received so much attention in the United States of America recently, given the sweeping general reference to an ethnic group.

35. Mr. SPINELLIS (Greece) said that his delegation had not intended to imply that all Roma were criminals, but rather that in that particular closed community of the tent camps, crimes involving drugs and the use of weapons were common. It was not a question of racial discrimination, and a general statement was not being made; it was simply a necessary matter of risk assessment.

The public part of the meeting rose at 4.15 p.m.